IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2007

CORAM

THE HONOURABLE MR. JUSTICE P.JYOTHIMANI

Writ Petition No.49999 of 2006
and M.P.No.1 of 2006

A.Charles Hepzy Roy ... Petitioner

Vs.

1. The Secretary to Government
   Higher Education Department
   Fort St. George,
   Chennai - 600 009.

2. The Director of Collegiate Education
   College Road, Chennai - 600 006.

3. The Joint Director of Collegiate Education,
   Tirunelveli Region,
   Tirunelveli - 627 603

4. The Registrar,
   University of Madras
   Chepauk, Chennai - 600 005.

5. The Registrar,
   Manonmaniam Sundaranar University
   Abishekapatty Post
   Tirunelveli - 9.

6. The Correspondent
   Scott Christian College,
   (Kanyakumari Diocese of CSI)
   Nagercoil, Kanyakumari District ... Respondents

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Prayer:- Writ Petition filed under Article 226 of the Constitution of India for the issuance of a writ of certiorarified mandamus to call for the records and quash the order dated 05.12.2006 passed by the Joint Director of Collegiate Education, Tirunelveli Region, Tirunelveli-627 003 in his proceedings Na.Ka.No.7841/D1/ 2000 for a consequential direction to direct the respondents herein to approve the petitioner's appointment as

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Lecturer in Physics in Scott Christian College, Nagercoil, Kanyakumari District, with effect from 05.12.1995 and to pay salary and other benefits with effect from 05.12.1995.

For Petitioner : Mr. E.Martin Jeyakumar.
For Respondents : Mr. Sekar, Spl. G.P.

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O R D E R

This writ petition is filed challenging the order of the third respondent, Joint Director of Collegiate Education, Tirunelveli, dated 05.12.2006 and for a direction against the respondents to approve the petitioner's appointment as Lecturer in Physics in Scott Christian College, Nagercoil, Kanyakumari District, with effect from his original date of appointment, dated 05.12.1995.

2. It is the case of the petitioner that he has qualified himself in M.Sc., (Physics) and State Level Screening Test (hereinafter referred to as "SLET") Examination and appointed as a Lecturer in Physics in a regular sanctioned post under the sixth respondent-College with effect from 05.12.1995. It is the case of the petitioner that the petitioner passed the SLET Examination by the University of Madras, as a Nodal Agency, held on 02.09.1990. However, the said certificate issued by the University of Madras states that a pass in the SLST does not automatically ensure the candidate a job but it is only an eligibility requirement to apply for position of Lecturer. This certificate is valid for a period of five years from the date of publication of results.

3. It was on the basis of the said endorsement issued by the University of Madras while issuing the certificate of SLET Examination and considering that the five years period has expired from the date of issue of the certificate around 1996 and therefore the petitioner's appointment in the sixth respondent-College as Lecturer with effect from 05.12.1995 cannot be approved. It is by that view, the third respondent has passed the impugned order dated 05.12.2006 stating that the certificate issued by the University of Madras in respect of the petitioner having passed the SLET Examination has become invalid, since five years has already lapsed. However, it also stated that since the Government has subsequently passed G.O.Ms.No.502, Higher Education (H1) Department, dated 24.09.2004, taking a way the period of five years from the date of certificate issued by the Nodal Agencies and deciding that the said certificate will be valid from the date of issue. But the impugned order states that inasmuch as the Government has passed the Government Order in G.O.Ms.No.502, dated 24.09.2004, the disqualification of five years should be deemed to have been taken away only from the date of the Government Order, namely, 24.09.2004 and further states that the approval for the appointment of the petitioner will be granted only from the date of issuance of Government Order, namely 24.09.2004, and also on condition that the petitioner

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withdraws the writ petition. It is challenging the said order, the present writ petition is filed.

4. When the matter came up for admission, this Court has directed the Learned Special Government Pleader (Education) to take notice and thereafter the matter was posted on many occasions and today with the matter came up for further hearing, Mr. Sekar, learned Special Government Pleader (Education) would submit that inasmuch as the Government has passed the Government Order in G.O.Ms.No.502, Higher Education (H1) Department, dated 24.09.2004, removed the embargo of five years in respect of the SLET Certificate, the petitioner would be entitled for approval of his appointment even though he would state that since Government Order was passed on 24.09.2004, the effect should be given only from the date of the Government Order. On the other hand, he is unable to answer a question posed to him regarding the purport of passing the said Government Order to remove the embargo of five years limitation imposed on the SLET Certificate issued by the Nodal Agency, by the University of Madras, which is admittedly issued in the year 1991.

5. I have perused the entire records. A reference to G.O.Ms.No.502 dated 24.09.2004 would show that in a similar circumstance, the Government has considered the proposal of University, in respect of another candidate one Mrs.S.Kothai, who got qualified in the SLET Examination with one Nodel Agency, namely University of Madras, which issued the SLET Certificate with a conditional clause that the said SLET Certificate would be valid only for five years from the date of issuance of the Certificate and the Government has considered the same and recommended that the embargo of five years can be taken away since the SLET Certificate given is after the examination and there cannot be any condition as restriction for the purpose of certificate issued after the person has qualified in the examination. The Government, after considering the said proposal of the University, has passed the above G.O.Ms.No.502, dated 24.09.2004, stating as follows:-

> "The Government after careful consideration, accept the suggestion of the Registrar i/c. University of Madras and accordingly direct that the conditional clause (i.e.) validity period of 5 years in the State Level Screening Test, prescribed in the letter 2nd read above be removed".

Therefore, a reference to the Government Order shows that the purport of the Government Order was to take away the five years limitation period given in the certificate and it can never be said that such effect should be given only from the date of Government Order.

6. If the contention of the learned Special Government Pleader is accepted that only from the date of Government Order the effect should be given that will really take away the very purpose of the Government Order. If the Government only mean that once the University of Madras has given the SLET Certificate, which was admittedly in the year 1991, that should be made valid from the date of certificate issued by the Nodal Agencies it

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cannot be from the date of issuance of the Government Order. Therefore, there is absolutely no justification on the part of the learned Special Government Pleader to suggest and also for the third respondent in the impugned order to take a stand, as if the embargo will be deemed to have been taken away only from the date of passing of the said Government Order.

7. In view of the same and finding that once the Government itself has passed an order to remove the embargo of five years in respect of the issuance of SLET Certificate given by the Nodal Agency, it should mean that the certificate issued by the Nodal Agency should be deemed to be valid from the date of issuance of certificate and if that being so, the appointment made to the petitioner in the year 1995 cannot be held to be invalid only on the ground of endorsement made in the certificate issued by the Nodal Agency.

8. In view of the same, the impugned order passed by the third respondent, dated 05.12.2006, is set-aside and the second respondent is directed to grant approval to the petitioner from the date of his appointment and pass appropriate orders within a period of eight (8) weeks from the date of receipt of a copy of this order, if there are no other legal impediments.

9. The writ petition stands allowed on the above terms. No costs. Consequently, the connected MP is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

srk

To
1. The Secretary to Government
Higher Education Department
Fort St. George, Chennai - 600 009.

2. The Director of Collegiate Education
College Road, Chennai - 600 006.

3. The Joint Director of Collegiate Education,
Tirunelveli Region,
Tirunelveli - 627 603

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Manonmaniam Sundaranar University
Abishekapatty Post
Tirunelveli - 9.

+ 1 CC to the Government Pleader SR NO 7126

+ 1 CC To Mr. E.Martin Jeyakumar, Advocate SR NO.7154

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and M.P.No.1 of 2006

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gp/8.2.

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